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OFFICE OF PETITIONS

In re Application of	:
Teresita Vergara Imperial	:
Application No. 09/332,863	: DECISION ON PETITION
Filed: June 15, 1999	: UNDER 37 CFR 1.137(b)
Attorney Docket No. REV-99-10	:

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 16, 2004, which set a shortened statutory period for reply of three (3) months. A reply, along with a three month extension of time under the provisions of 37 CFR 1.136(a), was received. As the reply did not *prima facie* place the application in condition for allowance, as set forth in the Advisory Action mailed July 6, 2005, this application became abandoned on June 17, 2005. A Notice of Abandonment was mailed on January 12, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The decision mailed December 7, 2006 stated that the filing of both a Notice of Appeal and a request for continued examination under 37 CFR 1.114 was unnecessary since either was a proper reply to a final Office action. In view thereof, petitioner was required to state whether he wished to proceed with

the request for continued examination under 37 CFR 1.114 or by way of a Notice of Appeal.

The renewed petition states that applicant "wishes to proceed with the request for continued examination under 37 CFR 1.114, filed on January 17, 2006."

In view of the above, the petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a request for continued examination, fee of \$395, and submission as required by 37 CFR 1.114, (2) the \$750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to final Office action of December 16, 2004 is accepted as having been unintentionally delayed.

As the filing of the Notice of Appeal was unnecessary, the \$250 fee submitted therefor is unnecessary. Accordingly, this fee will be refunded to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 1751 for processing the RCE filed on January 25, 2006 and for consideration, in the normal course of business, of the submission under 37 CFR 1.114, filed May 16, 2006.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

A handwritten signature in black ink, appearing to read "Frances Hicks", is written over the printed name.

Frances Hicks
Petitions Examiner
Office of Petitions